

COUNCIL FOR HEARING INSTRUMENT SPECIALISTS

MINUTES

Date: October 12, 2006

Time: 9:00a.m.

**Location: Health Related Boards
227 French Landing, Suite 501
Heritage Place Metro Center
Nashville, TN 37243**

Members Present

**Mr. Thomas A. Stewart, Chairman
Mr. Jackie L. Miller, Secretary
Mr. Craig Haltom, Council Member
Mr. James D. Alderman, Citizen Member
Dr. Robert E. Bowers, Physician**

Staff Absent

Ms. Juanita Presley, Advisory Attorney

Staff Present

**Ms. Bonnie Ferrell, Administrator
Ms. Marva Swann, Unit Director
Ms. Nicole Armstrong, Advisory Attorney
Mr. Jerry Kosten, Rules Coordinator
Ms. Denise Moran, Director of Investigations
Ms. Lisa Title, Administrative Services Manager
Ms. Lea Phelps, Disciplinary Coordinator**

The Council Chair, Mr. Thomas Stewart determined that a sufficient number of Council members were in attendance to constitute a quorum and called the meeting to order at 9:05 am.

Conflict of Interest

Ms. Nicole Armstrong informed the Council that she was sitting in for Ms. Juanita Presley. She then proceeded to review the Conflict of Interest Policy with the Council members.

Travel

Ms. Armstrong reviewed the rules of travel regulations relevant to per diem expenses, reimbursement of such expenses, and submission of appropriate forms to the administrative staff to process.

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O.G.C. Report

Ms. Armstrong informed the Council of the following:

Rule 1370-2-.08, .12, .19, .20 as amendment regarding examination equipment, retirement C.E., screening panels, and advertising is effective as of September 23, 2006.

Rule 1370-2-.05, Criminal Background Checks for all new applicants became effective May 31, 2006.

Proposed amendments to Rule 1370-2-.05, .06, .09, .15, regarding refundable examination fees, stays, deletion of requirement of signed photographs, bills of sale at renewal and informal settlements, the public hearing was held 8-17-06 and is before the Board at this meeting for final approval.

There were no contested cases scheduled for this meeting.

Ms. Armstrong requested that the Council complete all business and adjourn prior to administering the examinations. She said they could give the examinations after the meeting and that Ms. Bonnie Ferrell could grade them later. Ms. Ferrell would send an approval letter to the applicants that passed allowing them to work and a letter notifying the ones that did not pass that they would have to retake the portions that they failed.. The Council could ratify the applicant's examination scores at their next meeting. Dr. Bowers made a motion to complete all Council business, adjourn the meeting prior to giving the examinations and have Ms. Ferrell send letters of approval and examination retakes. The motion was seconded by Mr. Jackie Miller and the motion carried.

Rules:

Mr. Jerry Kosten presented the amendments that went to rule making hearing on August 17, 2006, regarding submission of a passport size photograph with application; examination and re-examination fee; change of wording in bills of sale from "bills of sale for audiometers" to "bills of sale for hearing instruments"; delete informal settlements, and petitions for reconsiderations and stays in contested proceedings to authorize the member of the HIS Council who presided over the contested case to hear the petition for reconsideration and stays pursuant to Rule 1360-4-1-.18.

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Dr. Robert Bowers made a motion to accept the amendments as written. The motion was seconded by Mr. Jackie Miller and the motion passed. Ms. Bonnie Ferrell conducted a roll call vote with all Council members voting yes.

Financial Report

Ms. Lisa Tittle informed the Council that they show a positive bottom line for the fiscal year. She stated that raising the application and renewal fees had brought them out of the red.

Mr. Stewart explained that we would have been out of the red sooner if it had not taken so long for the fee increase to be approved. He said that the Council had taken action to increase the fees about two (2) years before they became effective.

Mr. Stewart asked if we had collected the civil penalties that were assessed.

Ms. Denise Moran explained to the Council that we did not have the power to collect civil penalties. She said that Ms. Lea Phelps did everything she could to secure civil penalties, but some were still outstanding..

Ms. Moran informed the Council that Ms. Phelps had received an award from the Federal Department of Health and Human Services for all her hard work. This is the highest award a non-federal employee can receive and that they had only given out four (4) in the last eleven years.

Disciplinary Report

Ms. Phelps reviewed the disciplinary. She informed the Council that Ms. Karen Torbett, whose license was revoked on January 22, 2005, was still doing business on the internet.

File Review

The Council reviewed the application file of Mr. Eric New for licensure as an apprentice. Mr. New disclosed on his application that he had a 8/06 conviction for reckless driving. Following discussion of whether Mr. New's application had been unreasonably delayed (Ms. Ferrell explained that an application had to have all the required information/documentation—including the criminal background check—before it could be reviewed by the Council) , the Council voted unanimously to approve Mr. New's application to allow him to take the apprentice written and practical examinations.

During its consideration of Mr. New's application, the Council also discussed whether misdemeanor criminal convictions should affect licensure decisions. Ms. Armstrong explained that all felony and misdemeanor convictions (except minor traffic offenses such as parking and speeding tickets) must be disclosed by the applicant, and are verified by the criminal background check. The Council has both the authority and responsibility to determine whether an applicant has met the qualifications for licensure, as well as whether any disclosed criminal convictions/licensure disciplinary history/other factors indicate that the applicant may not be competent to practice safely. (Example: a DUI conviction, though while not considered a crime of "moral turpitude" may result in an applicant being issued a license with specified conditions or restrictions related to treatment and monitoring. Applicants who are denied a license or are issued a conditioned/restricted license by the Council based on a subjective determination have the right to appeal the Council's decision.)

Mr. New asked the Council if they would allow him to take both the apprentice and the hearing instrument specialist licensing examinations at the same time. Ms. Armstrong advised the Council that their law (T.C.A. § 63-17-208) and rules (Tenn. Comp. R. & Regs. 1370-2-.05(2)) require an apprentice to practice under supervision for at least 90 days and to document 60 hours of classroom coursework before an apprentice may take the examinations to upgrade to full licensure. Ms. Armstrong stated that the Council lacked the authority to grant any exceptions to those requirements.

Dr. Bowers made a motion to approve Mr. New to take the practical examination. The motion was seconded by Mr. Miller and the motion carried.

Mr. New requested a waiver of the ninety days working as an apprentice before he could apply for full licensure. Ms. Armstrong advised the Council that they could not grant him a waiver since it is against the rules. Dr. Bowers made a motion to deny Mr. New's request. Mr. Miller seconded the motion and the motion carried.

Adminisrator's Report

Ms. Ferrell told the Council that she had contacted Ms. Shanon Gerger of the North Carolina Board regarding the Practical and Jurisprudence exams and use of a simulator as requested. Ms Gerger stated that they have a contract for a new simulator. They would test it on their examinations to be given November 3 & 4, 2006. Until that time she was not at liberty to tell Ms. Ferrell anything about it. She suggested a call back the middle of November.

Mr. Stewart appointed Dr. David Levy, Mr. Craig Haltom, Mr. Miller, and Ms. Ferrell to be on an ad hoc committee to research leasing or buying a practical exam and simulator from another state or company.

Minutes

After reviewing the June 15, 2006 minutes, Dr. Bowers made a motion to accept them as written. Mr. Miller seconded the motion and the motion carried.

Examinations

Mr. Stewart designated Dr. David Levy to administer examinations to some of the applicants.

The Council adjourned to administer exams to the following applicants at 11:30 am:

- 1. Clonce, Stephanie L.**
- 2. Smalley, Katy Brianne**
- 3. Woolum, Rhonda A,**
- 4. New, Eric**
- 5. Dyke, Sandra R.**
- 6. Rigg, David M.**

There being no further business Dr. Levy made the motion to adjourn the meeting. The motion was seconded by Mr. Miller and the motion carried. The meeting adjourned at 2:10pm.

Mr. Andy Stewart, Council Chair

Date